

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

OLIVER DEMARIO RUNNELS, #1358997 §

VS. § CIVIL ACTION NO. 6:12cv359

DIRECTOR, TDCJ-CID §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be dismissed as time-barred. Petitioner has filed objections.

The Report and Recommendation of the Magistrate Judge, which contain her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. The focus of the objections is Petitioner's claim that he should be permitted to proceed with his case because he was actually innocent of the charges that were brought against him, but claims of actual innocence do not excuse a petitioner from filing a petition too late. *See Cousin v. Lensing*, 310 F.3d 843, 849 (5th Cir. 2002); *Tate v. Parker*, 439 Fed. Appx. 375 (5th Cir. 2011); *LeBlanc v. Travis*, 352 Fed. Appx. 966 (5th Cir. 2009). Thus the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #6) is **ADOPTED**. It is further

ORDERED that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 13th day of July, 2012.

A handwritten signature in black ink, reading "Michael H. Schneider", is written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE